

AMENDED IN ASSEMBLY APRIL 30, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1033

Introduced by Assembly Member Montanez

February 20, 2003

An act to add Section 118951 to the Health and Safety Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

AB 1033, as amended, Montanez. Tobacco: prohibition on nonsale distribution.

Existing law prohibits the sale, gift, or furnishing of tobacco products to a person under 18 years of age. A violation of this provision is subject to either a criminal or civil penalty.

Under existing law, it is unlawful for any person, agent, or employee of a person in the business of selling or distributing smokeless tobacco or cigarettes to engage in the nonsale distribution of any smokeless tobacco or cigarettes to any person in certain public areas, as defined, and on any private property that is open to the public, except as specified.

This bill would prohibit, *except as specified*, the nonsale distribution, as defined, of tobacco products and other related products to any person. A violation of this prohibition would be subject to specified civil penalties.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 118951 is added to the Health and
2 Safety Code, to read:

3 118951. (a) ~~Notwithstanding~~ (1) *Subject to paragraphs (2)*
4 *and (3), and notwithstanding* any other provision of law, no person
5 shall engage in the nonsale distribution to any person of any
6 tobacco, cigarette, or cigarette papers, or any other paraphernalia
7 of tobacco, or any instrument or paraphernalia that is designed for
8 the smoking or ingestion of tobacco or products prepared from
9 tobacco.

10 (2) *A manufacturer or importer may make nonsale*
11 *distributions of tobacco products or paraphernalia described in*
12 *paragraph (1) to a wholesaler or distributor.*

13 (3) *Coupons, coupon offers, or rebate offers regarding tobacco*
14 *products or paraphernalia described in paragraph (1) may be*
15 *offered to a consumer as part of a face-to-face retail sale.*

16 (b) Any person who violates this section is subject to a civil
17 action brought by the Attorney General, or a city attorney, county
18 counsel, or district attorney for an injunction and a civil penalty of
19 at least five hundred dollars (\$500) and up to two thousand dollars
20 (\$2,000) per violation. Each distribution of a single package of any
21 of the items described in subdivision (a) constitutes a separate and
22 distinct violation. This subdivision does not affect any other
23 remedies available for a violation of this section.

24 (c) For purposes of this section, “nonsale distribution” means
25 a transaction by a manufacturer, distributor, wholesaler, retailer, or
26 an agent of any of these persons or entities in which a tobacco
27 product described in subdivision (a) is provided to a person at no
28 cost or at a nominal cost, or a transaction by one of these persons
29 or entities or an agent of these persons or entities in which coupons,
30 coupon offers, or rebate offers for these products are provided to
31 a person at no cost or at a nominal cost. Nominal cost includes, but
32 is not limited to, shipping, handling, and other similar costs.

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